

**AMENDMENT No. 2 to the
INMATE TELEPHONE SERVICES AGREEMENT #14K354**

This Amendment No. 2 to the Inmate Telephone Services Agreement dated 10/15/2015, as previously amended (the "Agreement") is made by and between **Inmate Calling Solutions, LLC, d/b/a ICSolutions** ("ICS") and the **Gaston County Sheriff's Office** ("County") effective as of November 1, 2018 ("Amendment Date").


Whereas, the parties previously amended the agreement, as of June 20, 2016, to adjust the call rates and service fees in accordance with regulatory changes and to modify the Commission rate; and

Whereas, the parties now agree to further amend the Agreement as follows:

1. Capitalized terms not expressly defined herein shall have the meaning ascribed thereto under the Agreement.
2. The Initial Term of the Agreement is hereby amended to be through October 14th, 2021. Thereafter, the Agreement shall renew for one year terms, at the discretion of the parties, in accordance with the provisions of Section 1.
3. In addition to any other termination rights, either party may terminate this Agreement for convenience, and without penalty, with ninety (90) days' prior written notice.
4. The Video Recovery Fee, set forth under Exhibit D of the Agreement, is hereby amended to be \$0.25 effective with settlement of the revenue generated in October, 2018.
5. Except as amended herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment by their duly authorized representatives effective as of the Amendment Date first set forth above:

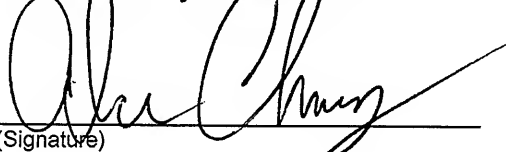
**Inmate Calling Solutions, LLC
d/b/a ICSolutions**


(Signature)

Michael Kennedy
(Printed Name)

Vice President Sales & Marketing
(Title)

Gaston County Sheriff's Office


(Signature)

Alan Cloninger
(Printed Name)

Sheriff
(Title)

2015-238-#1

ADDITIONAL GASTON COUNTY CONTRACT TERMS/CONDITIONS AND SIGNATURE PAGE

NON APPROPRIATION

In the event funds are not appropriated during the term of this Agreement for the subject matter herein described, and there are no other available funds by or with which payment can be made to the Vendor, this agreement is terminated. This Agreement will be deemed terminated on the last day of the fiscal period for which appropriations were received without penalty or expense, except to the portion of payment for which funds have been appropriated and budgeted.

IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY N.C.G.S. Chapter 147, Article 6E

As of the date listed below, the vendor or bidder listed below is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. the applicable provisions within Chapter 147, Article 6E of the N.C.G.S. The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed below to make the foregoing statement.

NOTE: N.C.G.S Chapter 147, Article 6E requires this certification for bids or contracts with the various governmental entities of North Carolina, including Counties. The certification is required when a bid is submitted, when a contract is entered into, and when a contract is renewed or assigned. No vendor may utilize any subcontractor found on the State Treasurer's Final Divestment List. The List is updated every 180 days, and can be found at www.nctreasurer.com/iran

NORTH CAROLINA E-VERIFY CERTIFICATION

APPLICABILITY: Pursuant to North Carolina Sessions Law 2015-294, the certification is applicable for all contracts entered into by Gaston County, except contracts solely for the purchase of goods, apparatus, supplies, materials, equipment, or contracts with specific other entities as described in N.C.G.S. §143-133.3, piggy-back contracts, and travel purchases.

CERTIFICATION: By signing and entering into this contract with Gaston County, I hereby certify that I comply with E-Verify, the aforementioned Federal program used to verify the work authorization of newly hired employees working in North Carolina. I certify compliance with the E-Verification program pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes. If applicable, I am also certifying that any subcontractor hired or used by me will comply with E-Verify, as described herein.

ADA AND CIVIL RIGHTS CERTIFICATION OF COMPLIANCE

I hereby certify that I comply with all applicable federal civil rights laws, including the applicable provisions of the Americans with Disabilities Act

NOTE ON UNIFORM GUIDANCE ("UG") REQUIRED CONTRACT PROVISIONS. Uniform Guidance ("UG") is a set of uniform standards for contracts involving the award/expenditure of certain federal monies. If the UG requirements are not applicable, the UG provisions do not apply, unless specifically stated so in the contract.

VENDOR

Date: 10/23/18

Date: 11/1/18

~~Clerk to the Board/Deputy Clerk to the Board~~

~~Finance Director/Financial Quality Assurance Manager~~

Uniform Guidance ("UG") Required Contract Provisions

APPLICABILITY: UG is a set of uniform standards for award and expenditure of federal financial assistance, and applies to the purchase of apparatus, supplies, equipment, materials, services, construction and repair, and engineering/architectural services. See 2 CFR Part 200. Provided that these standards are applicable to you, by signing this signature page, you are certifying that your organization meets these requirements and that this certification, with the statutory references incorporated into each certification, on its face constitutes the "provision for compliance" for any paragraphs requiring such provision or other similar required statement, terms, or requirements. Gaston County is also required to be bound by such provisions. As the UG requires that any more stringent state law or local ordinance/policy supersedes these certifications, such state or local contractual references supersedes the requirements below, to the extent that the state or local provisions are more stringent than the federal requirements. If the service provided under the contract is not covered by the UG, signing the contract signature page will not bind the parties to these requirements, unless if specified in the contract. See generally https://www.ecfr.gov/cgi-bin/text-id.x?SID=04e61f4e0a8317140a9ec150bb2ac195&mc=true&nnode=pt2.1.200&rgn=div5#ap2.1.200_1521.ii

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Ex. Order 11375, "Amending Ex. Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of

\$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Ex. Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Ex. Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Ex. Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

§200.322 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

INMATE TELEPHONE SERVICES AGREEMENT

This Inmate Telephone Services Agreement ("Agreement") is made by and between Inmate Calling Solutions, LLC, d/b/a ICSolutions ("ICS"), having its principal place of business at 2200 Danbury Street, San Antonio, TX 78217, and Gaston County Sheriff's Office (the "County") having its principal address as set forth on Exhibit A, attached hereto.

1. Term of Contract. This Agreement shall commence upon the date inmates within the County's control begin placing telephone calls from the Equipment, which has been estimated to be October 15th, 2015 (the "Cutover Date") based on this Agreement being fully executed not less than 45 days prior to such date and shall remain in force and effect for (3) three years from the Cutover Date ("Initial Term"). This Agreement shall automatically renew for (2) two additional terms of (1) one year, each upon the same terms and conditions as set forth herein, unless either party otherwise provides written notice to the other party at least ninety (90) days prior to a scheduled renewal. Notwithstanding the foregoing, either party may terminate this Agreement, based on a material, adverse economic change beyond such party's reasonable control, with sixty (60) day's prior written notice. Upon termination of this Agreement, County shall immediately cease the use of any ICS-owned Equipment provided hereunder.

2. Equipment. This Agreement applies to the provision of Equipment by ICS either centrally located or within space provided by the County at each of the "Service Locations" listed on Exhibit A, attached hereto. The term "Equipment" is defined herein as telephone sets, computer systems and software, all as more fully described on Exhibit B, attached hereto. All Equipment shall be installed by properly trained personnel and in a good, workmanlike manner. The VizVox Video Visitation & Cell Sense systems, as more fully described on Exhibit A, shall become the property of County upon completion of the Initial Term of this Agreement. Any Equipment of ICS installed upon the premises owned, leased or otherwise under the supervision of County, shall otherwise remain in all respects the property of ICS. ICS reserves the right to remove or relocate any ICS-owned Equipment that is subjected to recurring vandalism or insufficient usage. ICS shall not exercise such right of removal or relocation unreasonably and, in any case with at least thirty (30) days prior notice to County. Upon removal of Equipment by ICS, ICS shall restore the premise to its original condition, ordinary wear and tear excepted.

3. Alteration and Attachments. County shall not make alterations or place any attachments to Equipment and Equipment shall not be moved, removed, rendered inoperable or unusable, or made inaccessible to inmates or users by County without the express written permission of ICS.

4. Training. ICS shall provide on-site training plus internet-based training at no cost to County. Additional training may be provided upon County's request based on availability of ICS.

5. Call Rates. ICS shall provide collect calling services to End-Users, on both a pre-paid and post-billed basis, at the rates and charges set forth on Exhibit C, attached hereto. ICS reserves the right to establish thresholds for the level of collect call credit to be allowed by the billed consumer. Rates and charges may be subject to change based on an order or rule of a regulatory authority having applicable jurisdiction.

6. Commissions to County. ICS will install, operate and maintain Equipment at no charge to County. ICS will pay County the commission amounts set forth on Exhibit D, attached hereto (collectively the "Commissions"), in consideration of the County granting ICS exclusive rights for the installation and operation of Equipment servicing the Locations. No Commissions shall be paid to County on amounts relating to taxes, regulatory surcharges such as universal service fund, or other fees and charges not applicable to the billed calls.

ICS will pay Commissions to County on a monthly basis on or before the first business day occurring 45 days following the end of the month in which such Commissions are earned or accrued. Such Commissions shall be sent to the address designated by County or wired to an account designated in writing by County for such purpose.

2015-238

County agrees that all Commissions are subject to change based on any changes that may be required by the applicable Public Service Commission or any policy, regulation or tariff governed by a regulatory body having jurisdiction over the public communications contemplated herein. In addition, Commission rates are predicated on County maintaining an average daily inmate population ("ADP") consistent with the average of the three months preceding the cutover date and having access to telephones materially consistent with industry practice. Should the ADP fall below such average for two (2) consecutive months, then the parties shall negotiate in good faith to make an appropriate adjustment to Commissions. In the event the parties cannot agree on such adjustment within thirty (30) days, then either party may terminate this Agreement without penalty.

7. County shall:

- a. Advise ICS of any Services Location or related premise that has been closed.
- b. Throughout the term of this Agreement, including any renewal terms, use ICS as its exclusive provider for all matters relating to inmate telecommunication services.
- c. Reasonably protect the Equipment against willful abuse and promptly report any damage, service failure or hazardous conditions to ICS.
- d. Provide necessary power and power source, at no cost to ICS, and an operating environment with reasonable cooling consistent with general office use.
- e. Provide suitable space and accessibility for inmates' use of telephone services.
- f. Permit ICS to display reasonable signs furnished by ICS and not affix or allow to be affixed any other signs, equipment or information to the Equipment.
- g. Permit reasonable access by ICS to County's Locations as reasonably necessary for ICS to install, support and maintain the Equipment.
- h. Comply with all federal, state and local statutes, rules, regulations, ordinances or codes governing or applicable to the telephone services offered by ICS.

8. Law and Venue. The domestic law of the State of North Carolina shall govern the construction, interpretation and performance of this Agreement and all transactions hereunder. All disputes hereunder shall be resolved exclusively in state or federal jurisdictions located in Gaston County of North Carolina.

9. Notices. Any notice or demand required hereunder shall be given or made by mail, postage prepaid, addressed to the respective party at the address first set forth above unless otherwise communicated in writing.

10. Entire Agreement. This Agreement constitutes the entire Agreement between the parties and may not be modified or amended other than by a written instrument executed by both parties. Any orders placed by County hereunder shall be incorporated herein by mutual consent of the parties and shall supplement but not supersede the provisions of this Agreement. The County represents and warrants that it has the legal authority to make decisions concerning the provisions of space for

telephones placed by ICS at the Service Locations covered by this Agreement and that ICS may rely thereon. This Agreement supersedes any prior written or oral understanding between the parties.

11. Risk of Loss. ICS shall relieve County of all risk of loss or damage to Equipment during the periods of transportation and installation of the Equipment. However, County shall be responsible for any loss or damage to Equipment located on the premise caused by fault or negligence of County, its employees or others under County's supervision, except expressly excluding inmates at any Service Location.

12. Default. In the event either party shall be in breach or default of any terms, conditions, or covenants of this Agreement and such breach or default shall continue for a period of thirty (30) days after the giving of written notice thereof by the other party, then, in addition to all other rights and remedies at law or in equity or otherwise, including recovering of attorney fees and court cost, the non-breaching party shall have the right to cancel this Agreement without charge or liability. The waiver of any default hereunder by either party shall not constitute, or be construed as, a waiver of any subsequent default.

13. Assignment. This Agreement may be transferred or assigned, in whole or in part, by ICS to any parent, successor, subsidiary, or affiliate of ICS. ICS may sub-contract any portion of its duties hereunder provided, however, it shall remain at all times responsible for such sub-contracted duties. This Agreement may otherwise only be transferred or assigned by a party with the written consent of the other party, which consent shall not be unreasonably withheld or delayed.

14. Relationship. The parties hereto are independent contractors and this Agreement shall not be construed as a contract of agency or employment. Each party shall be solely responsible for compliance with all laws, rules and regulations and payment of all wages, unemployment, social security and any taxes applicable to such party's employees. Each party represents and warrants that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; (c) its performance hereunder shall be in compliance with applicable state and federal legal and regulatory requirements.

To the extent permitted by NC law,
15. Indemnification. Each party shall indemnify, defend and hold harmless the other party from and against any and all claims, losses, injuries, or demands asserted by third parties (collectively "Claims") arising from the material breach, negligent acts or misconduct of such indemnifying party, its agents or employees, in the performance of any of its obligations hereunder. Except for the foregoing express indemnification, each party shall bear its own liability and costs of defense for any third party claims.

Violations of administrative rule, regulation, and orders, in particular FCC order 13-113 concerning inmate calling services,

16. Force Majeure. Either party may suspend all or part of its obligations hereunder and such party shall not otherwise be held responsible for any damages, delays or performance failures caused by acts of God, events of nature, civil disobedience, military action or similar events beyond the reasonable control of such party.

*55 180
12-15 12/14/15*
17. Severability. If any of the provisions of this Agreement shall be deemed invalid or unenforceable under the laws of the applicable jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of ICS and County shall be construed and enforced accordingly.

18. Special ADA. ICS will install Equipment in accordance with the Americans with Disabilities Act and any related federal, state and local regulations in effect at the time of installation. ICS shall make any alterations to the Equipment as necessary for its correct operation and/or compliance with applicable laws at no cost to County.

19. Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF GOODWILL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES REGARDLESS OF THE FORM OF ANY CLAIM, WHETHER IN

CONTRACT OR IN TORT OR WHETHER FROM BREACH OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER SUCH PARTY HAS BEEN ADVISED OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

20. Warranty. Subject to County's compliance with its obligations hereunder, Equipment shall be free from defects in workmanship and material, shall conform to ICS' published specifications in effect on the date of delivery or as otherwise proposed to County in writing, and shall not infringe any patent or trademark. This warranty shall continue while Equipment is in operation at each Location. County shall provide ICS with prompt written notification as to the specifics of any nonconformity or defect and ICS shall have a commercially reasonable timeframe to investigate such nonconformity or defect. As County's sole and exclusive remedy, ICS shall, at ICS' sole option and expense, either: (a) correct any nonconformities or defects which substantially impair the functionality of the Equipment in accordance with the aforesaid specifications; (b) use reasonable efforts to provide a work-around for any reproducible nonconformities or defects which substantially impair the functionality of the Equipment in accordance with the aforesaid specifications; (c) replace such nonconforming or defective Equipment; or (d) promptly refund any amounts paid to ICS by County with respect to such nonconforming or defective Equipment upon ICS receipt of such nonconforming or defective Equipment. ICS does not warrant that the operation of the Equipment shall be uninterrupted or error-free. No warranty is made with respect to the use of Equipment on or in connection with equipment or software not provided by ICS. Equipment may contain recycled, refurbished or remanufactured parts which are equivalent to new parts. ICS makes no warranties or representations that it will solve any problems or produce any specific results.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES AND ICSOLUTIONS HEREBY DISCLAIMS ANY OTHER WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. THE FOREGOING SHALL BE THE SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO NONCONFORMING OR DEFECTIVE EQUIPMENT AND SERVICES. NOTHING CONTAINED HEREIN SHALL OBLIGATE ICS TO ENHANCE OR MODIFY THE SERVICES OR EQUIPMENT BEYOND THE SUBSTANTIAL FUNCTIONALITY INITIALLY ACCEPTED BY FACILITY, WHICH ACCEPTANCE SHALL BE DEEMED TO HAVE OCCURRED UPON THE GENERATION OF CALL REVENUE.

21. No Hire/No Solicit. During the term of this Agreement, and for a period of six (6) months thereafter, neither party shall solicit or hire the other party's employees, agents or representatives engaged by such party to perform work relating to this Agreement, without the express written consent of the other party.

22. Confidentiality. During the term of this Agreement, each party may disclose to the other certain proprietary information including, without limitation, trade secrets, know how, software, source code, techniques, future product plans, marketing plans, inventions, discoveries, improvements, financial data, business strategies and the terms of this Agreement (collectively, "Confidential Information") of a character identified by the disclosing party as confidential and that should reasonably have been understood by recipient, because of legends or markings, the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential to the disclosing party. Each party and each of its employees or consultants to whom disclosure is made shall hold all Confidential Information in confidence, and shall not disclose such information to any third party or apply it to uses other than in connection with the performance of this Agreement. Each party shall use the same degree of care that it utilizes to protect its own information of a similar nature, but in any event not less than reasonable duty of care, to prevent the unauthorized use or disclosure of any Confidential Information. A recipient may not alter, decompile, disassemble, reverse engineer, or otherwise modify any Confidential Information received hereunder and the mingling of the Confidential Information with information of the recipient shall not affect the confidential nature or ownership of the same as provided hereunder. The obligations of this paragraph shall survive termination of this Agreement for a period of three (3) years.

This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Confidential Information received hereunder which is: (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, becomes generally known or available; (b) lawfully known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter lawfully furnished to the recipient by a third party without restriction on disclosure; or (d) independently developed by the recipient without use of the disclosing party's Confidential Information.

Nothing in this Agreement shall prevent the receiving party from disclosing Confidential Information to the extent the receiving party is legally compelled to do so by any governmental or judicial agency having jurisdiction.

23. License to Use Software. With respect to the Equipment provided under this Agreement, ICS hereby grants to County a nontransferable, nonexclusive license to install, store, load, execute, operate, utilize and display (collectively, "Use") the runtime versions of the Enforcer[®] software in performance of this Agreement including, where applicable to the purposes hereunder, such Use on computers owned by County. Such license is specific to the County and Location(s) for which the ICS Services are provided and may not be transferred other than through an authorized assignment of this Agreement. Upon the termination hereof, this license and all rights of County to Use the Enforcer[®] software will expire and terminate. County will not transform, decompile, reverse engineer, disassemble or in any way modify any of the Enforcer[®] software or otherwise determine or attempt to determine source code from executable code of any elements of the Enforcer[®] software.

24. Third Party Software. Third-party software licenses may be contained in certain software included with equipment and may therefore require a click-through acceptance by any users. Such software licenses are incorporated herein by reference and can be made available upon request.

25. Taxes. Except as expressly provided for herein, each party shall bear responsibility for its own income and property taxes and such other costs and expenses arising in connection with the performance of their respective obligations hereunder.

26. Insurance. At all times during the Term of this Agreement, ICS shall maintain in effect the following types and amounts of insurance:

- a. General Liability Insurance: \$1,000,000 per occurrence; \$1,000,000 personal injury; \$2,000,000 general aggregate; \$2,000,000 products/completed operations.
- b. Commercial Automobile Liability: \$1,000,000 Combined Single Limit.
- c. Workers' Compensation: ICS shall comply with all workers' compensation requirements for the jurisdictions in which employees/representatives perform applicable duties.

ICS shall provide certificates evidencing the above coverage amounts upon request from County.

27. Compliance with laws and regulations. ICS assents that it currently is in compliance with all applicable laws and regulations, including those under Number 13-113, in its current form.
(Remainder of page intentionally left blank. Signature page and Exhibits follow.)

SD / BL
8-13-15 / 8/14/15

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives on the dates set forth below, and represent and warrant that they have full authority to execute this Agreement on behalf of their respective parties:

Inmate Calling Solutions, LLC

Brendan Philbin
(Signature)

BRENDAN PHILBIN
(Printed Name)

VICE PRESIDENT
(Title)

8/14/15
(Date)

Gaston County Sheriff's Office

See signature page
(Signature)

(Printed Name)

(Title)

(Date)

Non-Appropriation: In the event funds are not appropriated during the term of this Agreement for the subject matter herein described, and there are no other available funds by or with which payment can be made to the Vendor, this agreement is terminated. This Agreement will be deemed terminated on the last day of the fiscal period for which appropriations were received without penalty or expense, except to the portion of payment for which funds have been appropriated and budgeted.

VENDOR

By: _____

Date: _____

GASTON COUNTY

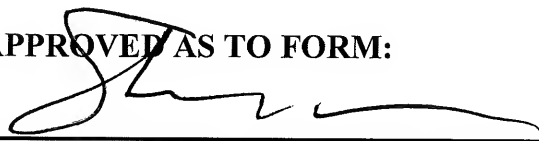
By: 
Manager/Assistant County Manager

Date: 8/17/2015

ATTEST:

 8/17/2015
Clerk to the Board/Deputy Clerk to the Board

APPROVED AS TO FORM:


County Attorney/Assistant County Attorney

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.



Finance Director/Assistant Finance Director

Exhibit A – County Addresses

Principle Business Address (used for all notices hereunder):

425 North Marietta Street
Gastonia, NC 28052

Service Locations:

Gaston County Sheriff's Office
425 North Marietta Street
Gastonia, NC 28052

Equipment to be shipped to:

Gaston County Sheriff's Office
425 North Marietta Street
Gastonia, NC 28052

Commissions to be paid to:

Gaston County Sheriff's Office
425 North Marietta Street
Gastonia, NC 28052

Exhibit B – Equipment

- **Centralized Enforcer® Call Processing**

- 49 x Inmate Housing Telephones
- 1 x Inmate Cart Phone
- 30 x Visitation Phone Sets (battery powered \ not recorded)
- 3 x Workstation & Printer
- 1 x TDD\TTY Device

- **Interface to JMS for automated PINs**

- Automated Inmate ID\PIN Updates to support Phone & Video

- **Enforcer Technology Suite**

- The Communicator – Inmate Request Portal
- The Attendant – Informational IVR
- Data Detective – Data Mining & Link Analysis

- **Interface to Banking & Commissary Vendor**

- Automated Debit Account Funding
- Over-the-Phone Commissary Ordering

- **Cell Phone Detection Technology**

- 2 x CellSense Units
- Includes on-site training and all-inclusive warranty package

- **VizVox Video Visitation System**

- 25 x Inmate Units
- 6 x Visitor Units
- 1 x Portable Unit
- 1 x Control Workstation
- 1 x Monitoring Workstation
- 1 x Visitor Registration Terminal
- Web Based Scheduling
- Commissary Ordering Enabled
- Remote Visitation Enabled
- Turnkey installation including all necessary conduit, cable and wiring and network
- All-Inclusive warranty, support and maintenance package during initial and any renewal terms

- **Dedicated Field Support**

- Dedicated Full-Time Site Admin\Technician (Certified NC Corrections Officer)
- Trained\Certified for both Phone & Video

Exhibit C – Call Rates

The following rates apply to calls from Service Locations:

Calling Rates		
<u>Call Type</u>	<u>Per Call Charge</u>	<u>Per Minute Charge</u>
Local	\$0.60	\$0.10
Intrastate/IntraLATA	\$0.60	\$0.10
Intrastate/InterLATA	\$0.60	\$0.10
Interstate	\$0.60	\$0.10
International	\$0.60	\$0.50

NOTES: Domestic interstate rates apply for calls to U.S. territories including American Samoa, Guam, Northern Mariana Islands, Puerto Rico and U.S. Virgin Islands. All non-U.S. destinations are rated as international.

Call rates shown do not include local, county, state and federal taxes, regulatory fees and billing fees.

Billing & Funding Fees

Credit/Debit Card Funding: \$6.95
All other fees are waived and eliminated

Remote Video Visitation

Remote visitation priced at \$0.50 per Minute and charged in 30 Minutes increments
ICS provides the necessary bandwidth to support Remote Video

Exhibit D – Commissions

During the Initial Term of this Agreement, ICS shall retain the first \$0.60 of each call to offset the cost of the video visitation system ("Video Recovery Fee"). ICS shall pay to County a Commission of 72.1% of the Total Gross Revenue, less the Video Recovery Fee, for all call types generated from County's Service Locations. Total Gross Revenue encompasses all calling revenue including interstate calling. Additionally ICS shall pay to County a Commission of 50% of the Total Revenue generated from Remote Visitation Services

During any Renewal Term of this Agreement, ICS shall pay to County a Commission of 72.1% of the Total Gross Revenue for all call types generated from County's Service Locations. Total Gross Revenue encompasses all calling revenue including interstate calling. Additionally ICS shall pay to County a Commission of 50% of the Total Revenue generated from Remote Visitation Services

Note: Commissions shall be made payable and sent to the address so designated on Exhibit A to this Agreement.